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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,845	03/30/2004	Christophe Gauthier	116598-00114	2328
27557	7590	06/06/2007		
BLANK ROME LLP 600 NEW HAMPSHIRE AVENUE, N.W. WASHINGTON, DC 20037			EXAMINER YAN, REN LUO	
			ART UNIT 2854	PAPER NUMBER
			MAIL DATE 06/06/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/811,845

Applicant(s)

GOUTHIER ET AL.

Examiner

Ren L. Yan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3-28-2007 has been entered.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 depends from cancelled claim 3, thus is incomplete. Accordingly, the scope of claim 9 can not be ascertained.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Lange, US 2,885,561 (hereinafter Lange).

Regarding claims 1 and 10, Lange teaches a dial, comprising: a substrate plate (45, Fig.

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12); a semi-transparent layer (17, 30, Fig. 12) covering at least part of said substrate plate of a material allowing light to pass; phosphorescent, fluorescent or luminescent luminous elements (20, Fig. 12) lodged between said substrate plate and said semi-transparent layer; wherein said luminous elements form an image and the image is visible in darkness but essentially invisible under normal lighting conditions (col. 1, lines 15-19 and 38-45). It is noted that claim 1 has been amended to recite the luminous elements form an image and the image is visible in the darkness but essentially invisible under normal lighting conditions. A careful review of the present disclosure indicates that the recited image is the shape of the luminous elements visible to the human eye in the dark. The luminous elements of the present invention do not form any other image other than their individually designed shape. This is the same structure as taught by Lange wherein the luminescent layer 20 forms an image by its designed shape visible to the human eye in the dark and covered from sight in daylight thus is essentially invisible under normal lighting conditions. Lange teaches that "the indicating portions of which are visible in the dark while the luminescent material is covered from sight in daylight" (col. 1, lines 15-19) and that "the partly translucent reflecting layer is visible when the intensity of outside light reflected by the translucent reflecting layer exceeds the intensity of light rays emitted by the luminescent body and passing through the partly translucent layer" (col. 1, 11.51-56). This means that when the light level is high enough, the light reflecting off the translucent layer 30 overpowers the light emitted from the luminescent elements 20, making the reflecting layer visible, but the luminous layer and its shape or image invisible. When the light level is low enough, the light from the luminescent elements penetrates the translucent layer, making the luminescent elements and the image they represent visible. Therefore, the luminous elements and

the image they project are essentially invisible under normal lighting conditions.

Regarding claim 4, Lange teaches all that is claimed as discussed in the rejection of claim 1 above. Lange also teaches the same structure that would result if said luminous elements were applied by serigraphy, tampography or manually onto said substrate plate and/or onto said semi-transparent layer. Applicant should note that even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. See MPEP § 2113.

Regarding claim 5, Lange teaches all that is claimed as discussed in the rejection of claim 1 above. Lange also teaches wherein said semi-transparent layer is made of plastic ("synthetic resin," col. 5, 11. 1-2).

Regarding claim 6, Lange teaches all that is claimed as discussed in the rejection of claim 1 above. Lange also teaches a colored layer (30, Fig. 12) interposed between said substrate plate and said semi-transparent layer.

Regarding claim 7, Lange teaches all that is claimed as discussed in the rejection of claim 6 above. Lange also teaches wherein said colored layer is a coat of varnish ("translucent brilliant varnish base," col. 3, 11.4-5).

Regarding claim 8, Lange teaches all that is claimed as discussed in the rejection of claim 1 above. Lange also teaches the same structure that would result if said blind hollows were made by machining or by selective chemical attack. Applicant should note that even though product-by-process claims are limited by and defined by the process, determination of patentability is

based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. See MPEP § 2113.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ren L. Yan whose telephone number is 571-272-2173. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on 571-272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ren L Yan  
Primary Examiner  
Art Unit 2854

Ren Yan  
June 1, 2007